

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: 3/4/05 Signature: [Signature]

(Ginny Blundell)

Docket No.: CIBT-P01-098

(PATENT)

27

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Jennifer Ott Reilly

Application No.: 09/845025

Confirmation No.: 1533

Filed: April 27, 2001

Art Unit: 1646

For: NEUROPROTECTIVE METHODS AND  
COMPOSITIONS

Examiner: M. T. Brannock

**REQUEST FOR REFUND**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby request a \$450.00 credit to our Deposit Account 18-1945. Evidence of our request for credit is detailed below.

On May 5, 2004 a final office action was issued with an initial response date of August 5, 2004. A reply was filed on July 27, 2004.

On September 16, 2004 an Advisory Action (attached as Exhibit A) was issued which stated the period for reply expires 4 months from the mailing date of the final rejection (due September 5, 2004).

On November 5, 2004 Applicant filed a Reply to the Office Action, a Notice of Appeal, and a two month extension of time. On November 10, 2004 our Deposit Account was charged the Notice of Appeal fee of \$340.00 and the two month extension fee of \$430.00. A copy of the Fee Transmittal specifically itemizing the two fees is attached as Exhibit B.

On November 16, 2004 our Deposit Account was additionally charged a three month extension of time fee of \$450.00.

Application No.: 09/845025

Docket No.: CIBT-P01-098

In view of the above, Applicant believes the two month extension fee charged on November 16, 2004 is incorrect.

Applicant respectfully requests a credit of \$450.00 to our Deposit Account No. 18-1945.

A copy of this letter is enclosed for accounting purposes.

Dated: *March 4, 2005*

Respectfully submitted,

By 

Melissa S. Rones, Ph.D.

Registration No.: 54,408

ROPES & GRAY LLP

One International Place

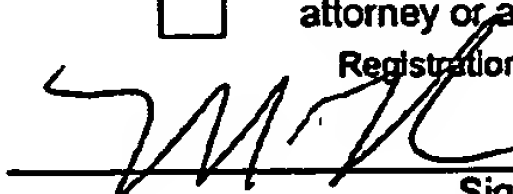
Boston, Massachusetts 02110-2624

(617) 951-7000

(617) 951-7050 (Fax)

Attorneys/Agents For Applicant



<b>PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)</b>		<b>Docket Number (Optional)</b> CIBT-P01-098	
<b>Application Number</b> 09/845025		<b>Filed</b> April 27, 2001	
<b>For</b> NEUROPROTECTIVE METHODS AND COMPOSITIONS			
<b>Art Unit</b> 1646		<b>Examiner</b> M. T. Brannock	
This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.			
The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):			
	<b>Fee</b>	<b>Small Entity Fee</b>	
<input type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$110.00	\$55.00	\$
<input checked="" type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$430.00	\$215.00	\$ 430.00
<input type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$980.00	\$490.00	\$
<input type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$1,530.00	\$765.00	\$
<input type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$2,080.00	\$1,040.00	\$
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27.			
<input type="checkbox"/> A check in the amount of the fee is enclosed.			
<input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.			
<input checked="" type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account.			
<input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 18-1945. I have enclosed a duplicate copy of this sheet.			
I am the <input type="checkbox"/> applicant/inventor.			
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).			
<input checked="" type="checkbox"/> attorney or agent of record. Registration Number 54,408			
<input type="checkbox"/> attorney or agent under 37 CFR 1.34(a). Registration number if acting under 37 CFR 1.34(a) _____			
 _____ Signature		November 5, 2004 _____ Date	
Melissa S. Rones, Ph.D. _____ Typed or printed name		(617) 951-7653 _____ Telephone Number	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below			
<input checked="" type="checkbox"/> Total of 1 forms are submitted.			

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: MS AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: 11/5/04 Signature:  (Ginny Blundell)



PTO/SB/17 (10-03)  
Approved for use through 7/31/2006. OMB 0651-0032  
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 770.00

## Complete If Known

Application Number	09/845025
Filing Date	April 27, 2001
First Named Inventor	Jennifer Ott Reilly
Examiner Name	M. T. Brannock
Art Unit	1646
Attorney Docket No.	CIBT-P01-098

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account

Deposit Account Number 18-1945

Deposit Account Name Ropes & Gray LLP

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$) 0.00

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims	** =	x	=
Multiple Dependent	** =	x	=

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	88	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	88	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$) 0.00

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	430.00
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	340.00
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1808	180	1808	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 770.00

## SUBMITTED BY

Name (Print/Type) Melissa S. Rones, Ph.D.

Registration No. (Attorney/Agent) 54,408

(Complete if applicable)

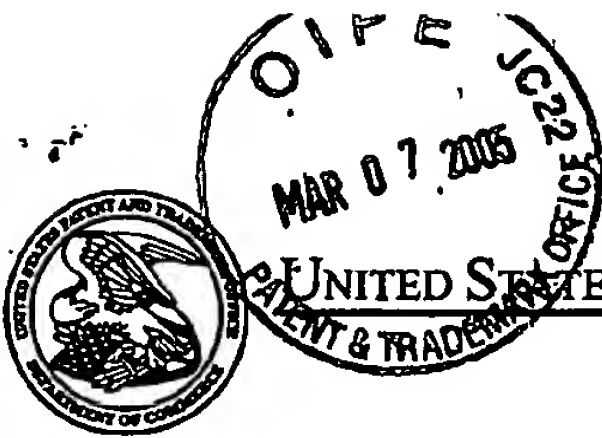
Telephone (617) 951-7653

Signature

Date November 5, 2004

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Dated: 11/5/04 Signature: (Ginny Blundell)



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
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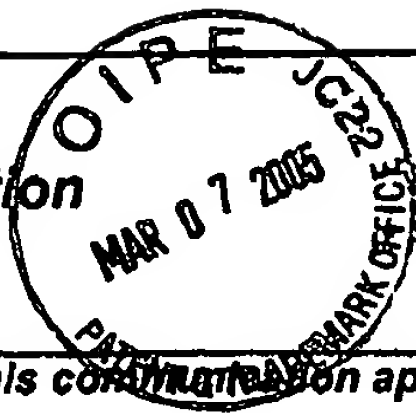
APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,025	04/27/2001	Jennifer Ott Reilly	CIBT-P01-098	1533
28120	7590	09/16/2004	EXAMINER	
ROPES & GRAY LLP ONE INTERNATIONAL PLACE BOSTON, MA 02110-2624			BRANNOCK, MICHAEL T	
SEP 20 2004			ART UNIT	PAPER NUMBER
			1646	

Intellectual Property Dept.

DATE MAILED: 09/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Ropes & Gray**  
**Symbol #:** CIBT-P01-098  
**Action Due:** Advisory Action -  
**Deadline(s):** File Notice of Appeal  
5 Oct 04 / 5 Nov 04

**Advisory Action**

Application No.

09/845,025

Applicant(s)

REILLY, JENNIFER OTT

Examiner

Michael Brannock

Art Unit

1646

—The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

THE REPLY FILED 29 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☒ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attachment.

3. ☒ Applicant's reply has overcome the following rejection(s): see attachment.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 1-4.6 and 11.

Claim(s) withdrawn from consideration: 5, 10, 13-28.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_



**Attachment to Advisory Action**

The proposed amendment will not be entered because it raises new issues under 35 USC 112, first paragraph; specifically the proposed amendment to claim 4 to recite "is post-translationally modified with one or more hydrophobic moieties" does not appear to be supported in the specification as filed, and Applicant has not pointed to such.

---

~~The proposed amendment would overcome all previous grounds of rejection based on 35 USC~~

~~112, first and second paragraphs.~~

The proposed amendment would not overcome the outstanding rejection under 35 USC 103(a). Applicant's arguments have been fully considered but not deemed persuasive. Ingham et al. specifically teach the expression of sonic hedgehog in baculovirus and COS cells (Col 86), both of which would necessarily result in post-translational modification with a hydrophobic moiety, as is well understood in the art. Further, as discussed in the prior Office action, that sonic hedgehog and NGF act synergistically on cholinergic neurons is an inherent property, there is no evidence that this property is only likely or probable to happen as Applicant suggests.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brannock, Ph.D., whose telephone number is (571) 272-

Application/Control Number: 09/845,025

Page 3

Art Unit: 1646

0869. The examiner can normally be reached on Mondays through Fridays from 10:00 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback, Ph.D., can be reached at (571) 272-0961.

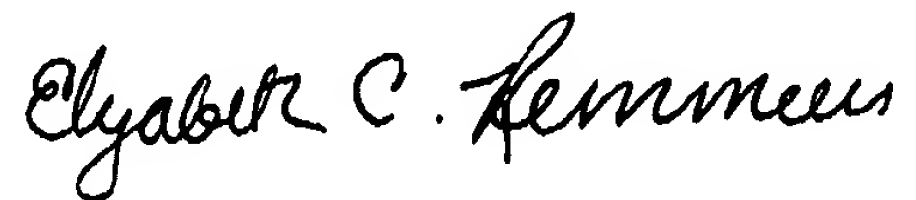
Official papers filed by fax should be directed to (703) 872-9306. Faxed draft or informal communications with the examiner should be directed to (703) 308-0294.

~~Any inquiry of a general nature or relating to the status of this application or proceeding~~  
should be directed to the Group receptionist whose telephone number is (703) 308-0196.

MB



September 7, 2004



ELIZABETH KEMMERER  
PRIMARY EXAMINER

BEST AVAILABLE COPY